

REMARKS

Claim 1-6 remain pending. Claim has been amended so as to incorporate the limitation of claim. Claim 7 has been canceled. Reconsideration of the application is respectfully requested.

Claims 1-3, 6 and 7 were rejected under 35 U.S.C. § 103(a) as obvious over Sudo et al. (USPN 4,935,042) in view of Outland (USPN 4,276,071). Claim 1 has been amended so as to include the limitation of previously pending claim 7. The Examiner acknowledges that a substantial reconfiguration of the device shown in Fig. 10 of the primary reference would be required in order to meet the presently rejected claim language, including the reversal of gas flow through the matrix as well as the repositioning of the collection chamber from under the device to a position at the end of the "now inlet chambers." It is to be noted that gas nozzle 40 would also have to be relocated to the exhaust end of device in order for the device to function as described in the reference. As such, the **only** element that would remain unchanged is the filter body which the applicants had acknowledged as comprising prior art with the recitation of DE 30 43 996 A1 at page 1, line 24 of the specification (which is a foreign equivalent of the secondary reference being relied upon by the Examiner). The Examiner then goes on to assert that such rearrangement of the prior art device would be obvious as it had been held that rearranging parts of an invention involves only routine skill in the art citing *In re Japikse*, 86USPQ70. Applicants respectfully traverse and direct the Examiner's attention to MPEP 2144.04(VI)(C). What was actually established in the case being relied upon by the Examiner is that the repositioning of a starting switch in a hydraulic power press was unpatentable **because it would not have modified the operation of the device**. In distinction thereto, the rearrangement of elements shown in the primary reference as is proposed by the Examiner would significantly modify the operation of device. Not only would the incoming gas flow no longer be required to change direction in order to enter the filter body but the force of gravity could no longer be relied upon to deposit ash in the collection chamber. The present invention is not directed to the filter body but rather to a novel and nonobvious way of repackaging and replumbing the previously known filter body to provide for a superior particulate filter for an internal combustion engine, a solution which is not in any way suggested by any combination of the cited art.

Moreover, as is also pointed out in MPEP 2144.04(VI)(C):

"The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of the appellant's specification, to make the necessary changes in the reference device." *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

In fact, rather than providing **any** motivation or reason to reposition the particulate chamber adjacent to longitudinally arranged inflow channels, the primary reference actually teaches away therefrom to the extent that the "falling down" of particulates into the particulate receiver 41 is said to be relied upon at col 9, line 58. No such function is possible by reversing the flow of exhaust gasses through the filter body shown in the reference or even by additionally repositioning the settling chamber adjacent to longitudinally disposed inflow channels as is currently being claimed. Moreover, in view of this teaching in the primary reference, it would be **unexpected** for the particulates to be longitudinally displaced and deposited in the particulate chamber in the present invention as the force of gravity could no longer be relied upon to cause the particulates to "fall down" into the chamber. While the teaching, suggestion or motivation is but one of the indicia used to determine obviousness in the wake of *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007), an unexpected result by a rearrangement of known elements provides substantial evidence of nonobviousness. It is additionally to be noted that the secondary reference fails to provide any teaching useful for the rearrangement of the configuration of the primary reference in view of the complete absence of a particulate chamber and the fact that exhaust gasses are simultaneously introduced into opposite ends of the inflow channels. It is respectfully submitted that obviousness is therefore effectively avoided.

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as obvious over Sudo et al. in view of Outland and further in view of Taketomo et al. (USPN 4,671,809). In view of the non-obviousness of the underlying independent claim as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness. .

In light of the above amendments and remarks, applicants believe the application to now be in condition for allowance and respectfully request an early disposition thereof.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

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